

## **MINUTES**

### **PROPERTY AND RIGHT-OF-WAY COMMITTEE MEETING THURSDAY, JUNE 17, 2004 10:00 A.M. CITY HALL 8<sup>TH</sup> FLOOR – COMMISSION CONFERENCE ROOM**

#### **Members Present:**

Peter R. Partington, P.E., Acting City Engineer  
Bob Dunckel, Assistant City Attorney  
Tony Irvine, City Surveyor  
Lois Udvardy, Planner II, substituting for Chris Barton  
Tom Terrell, Maintenance Manager  
Rose Reed, Community Inspections Supervisor, substituting for Lori Milano  
Jose DiCienzo, Chief Mechanic, substituting for Greg Thornburgh  
Kathy Connor, Parks Supervisor

#### **Staff Present:**

Ed Udvardy, Manager of General Services  
Victor Volpi, Senior Real Estate Officer  
Angela Csinsi, Planner I  
Maureen Barnes, Administrative Assistant I  
Rafeela Persaud, Word Processing Secretary  
Eileen Furedi, Clerk II

#### **Guests Present:**

Reed McClosky  
Salvatore Fasalo  
Paul Hammond  
Gair O'Neill  
Rebecca Frisby  
Michael Rose  
Ed Ploski  
Tyler Chappell  
Kari Laihoner  
Barbara Hall

Peter Partington called the meeting at 10:07 A.M. and stated that this is a Committee of City staff personnel serving as an advisory panel to the City Manager on appropriate uses of City property and right-of-way.

#### **ITEM ONE:            APPROVAL OF MAY 20, 2004 MINUTES**

**MOTION BY TONY IRVINE TO APPROVE THE MINUTES.    SECONDED BY TOM TERRELL.  
MOTION PASSED UNANIMOUSLY.**

**ITEM TWO:**                    **VACATION OF EASEMENT, SEMINOLE LAKE TOWNHOUSE ASSOCIATION**

Address or General Location: 2752 NE 14 Street

Victor Volpi introduced item stating that Adam Beighley is the President and Officer of the Seminole Lake Townhouse Association. He stated that along with Kari and Elisabeth Laihoner (the property owners of Unit 9), Mr. Beighley would like a positive recommendation to vacate an 8-foot drainage easement and a 5-foot utility easement along the south property lines of the development. He said that the applicants believe that the easements are not being used by the City or utility companies, and the easements restrict the homeowners as to placement of improvements, in this particular case a pool. Victor Volpi said that he had obtained a letter from Adam Beighley stating that he had no objections to the vacation. Victor Volpi introduced Kari Laihorn.

Bob Dunckel asked about the location of the pool. Mr. Laihorn said it would be at the southeast corner. Bob Dunckel asked the applicant if he was asking for the vacation of the 9-foot drainage easement and the 5-foot utility easement. Mr. Laihorn said yes. Bob Dunckel said that due to Code, the pedestrian easement could be not vacated. Bob Dunckel asked if there was anything in the drainage and/or utility easement.

Discussion followed as to any lines in the drainage and/or utility easement, no portion of the pool built within the 5-foot utility and pedestrian easement, drainage in the area not maintained by City, pool installed if drainage easement was vacated, item being deferred for more input from Greg Thornburg and Tim Welch.

Peter Partington asked if the Property and Right-of-Way items usually get circulated to staff other than the members. Victor Volpi stated that the agenda is mailed out one week prior to the meeting so that it could be reviewed by the members and he would sometimes get input/comments.

**MOTION BY TOM TERRELL TO DEFER. SECONDED BY BOB DUNCKEL.**

**MOTION PASSED UNANIMOUSLY.**

**ITEM THREE:**                    **VACATION OF EASEMENT, N.E. 16<sup>TH</sup> TERRACE/N.E. 17<sup>TH</sup> AVENUE**

Address or General Location: southwest corner of Sunrise Boulevard and NE 17 Avenue

Victor Volpi introduced item stating that N.E. 16<sup>th</sup> Terrace and N.E. 17<sup>th</sup> Avenue has been closed temporarily by the City Commission. He said that a portion of N.E. 17<sup>th</sup> Avenue has been vacated with an easement being retained. He said that he found an ordinance relating to the vacation of N.E. 16<sup>th</sup> Terrace; however, the City does not have a recorded easement deed for the "T" turnaround. Victor Volpi said that he also has no records of the vacation of the cul-de-sac. He stated that Hanover RS Limited Partnership would like a positive recommendation to vacate both portions of these roads as shown on the exhibit, in order to create a uniform development. He stated that the applicant intends to relocate all utilities at their expense, as per the City's request and direction. Victor Volpi introduced Michael Rose.

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Bob Dunckel questioned the "T" turnaround on N.E. 17<sup>th</sup> Avenue. Tony Irvine said that he remembered obtaining a deed for the "T" turnaround on N.E. 17<sup>th</sup> Avenue and a deed for the cul-de-sac on N.E. 16<sup>th</sup> Terrace.

Discussion followed regarding the deed and documentation for the "T" turnaround and the cul-de-sac. Bob Dunckel said that the request was to vacate the utility easement and asked if there was any attempt to vacate the utility easement within the "T" turnaround on N.E. 17 Terrace. Mr. Rose said no.

Tony Irvine said that there were water lines that served more than the applicant's property and there would have to be a constructive relocation plan.

Bob Dunckel said that in regards to relocation of utilities, there would need to be the relocation of utilities before an engineer's certificate is filed, which would make the vacation final.

Tom Terrell said that letters were obtained from all utility companies for the relocation except City Water and Sewer, and that he would like an approval letter from Mike Bailey and Greg Thornburg.

**MOTION BY BOB DUNCKEL TO RECOMMEND APPROVAL OF A VACATION SUBJECT TO RELOCATION OF UTILITY EASEMENTS BEFORE THE VACATION IS FINAL, OR CERTIFICATION BY THE CITY ENGINEER THAT NO RELOCATION IS REQUIRED.**

Tony Irvine said he would still like Mike Bailey's and Greg Thornburgh's approval.

Jose DiCienzo stated that a redesign and relocation would have to be submitted.

**SECONDED BY TONY IRVINE.**

**MOTION AMENDED BY TONY IRVINE TO ALSO RECOMMEND SUBJECT TO CERTIFICATION BY THE DIRECTOR OF UTILITIES THAT THE PROPOSED RELOCATION IS FEASIBLE AND PLANS AND SPECIFICATIONS ARE APPROVED BY THE UTILITIES DEPARTMENT.**

Victor Volpi said that he did not have the easement documentation for the turnaround. He stated that according to the ordinance, the easements could not be vacated if the easements were not recorded. Victor Volpi asked the applicant if he could research the easements and provide him a copy of the paper work. Mr. Rose said yes.

**MOTION PASSED UNANIMOUSLY.**

**ITEM FOUR:                    REVOCABLE LICENSE TO CONSTRUCT DOCKS ABUTTING CANAL**  
**RIGHT-OF-WAY, N.E. 18<sup>TH</sup> AVENUE**

Address or General Location: docks abutting canal, NE 18 Avenue and Rio de Las Olas

Victor Volpi introduced item stating Reed McClosky is the agent for the owner of a co-op that occupies a triangular parcel of canal right-of-way at N.E. 18<sup>th</sup> Avenue and Rio de Las Olas would like a positive recommendation to enter into an agreement with the City to construct docks abutting that portion of

the canal that has been filled in. He stated that the applicant would need the City agreement in order to obtain his permit. Victor Volpi introduced Reed McClosky.

Tony Irvine said he was not sure if the property line is behind the seawall. Bob Dunckel said that the patched area was dedicated as canal for the public. Bob Dunckel said that with a partial vacation, ownership would be vested in the upland owner. He stated that the interim step would be a revocable license agreement to construct the dock in an area that was dedicated to the public as a canal.

**MOTION BY TONY IRVINE TO RECOMMEND APPROVAL TO GRANT A REVOCABLE LICENSE AGREEMENT TO CONSTRUCT THE DOCK AS SHOWN ON EXHIBIT C.**

**SECONDED BY ROSE REED.**

Tom Terrell said that there is a storm water outfall in the area and the construction of the dock should not interfere with the outfall. Bob Dunckel suggested that the outfall was located within the right-of-way and the revocable license agreement would be to build the dock on the private property portion and not in the right-of-way. Tony Irvine said that with the revocable license agreement, the applicant would not have a right to damage any utilities or installations.

**MOTION PASSED UNANIMOUSLY.**

**ITEM FIVE: VACATION OF EASEMENT RETAINED, VICTORIA COURTS**

Address or General Location: 723 NE 17 Avenue

Victor Volpi introduced item stating that Ordinance C-89-130 vacated a walkway and park designated by the plat of Victoria Courts (9-49) and retained a utility easement. He said that Salvatore Fasulo, agent for David Morganlander would like a positive recommendation to vacate all easement rights. Victor Volpi introduced Salvatore Fasulo.

Bob Dunckel asked if there were utility easements between the lots and then on Lot 17 there was a walkway and park that had been vacated. Tony Irvine said that the utilities are around the odd-shaped lot. Bob Dunckel asked if the City had any utilities. Tony Irvine said yes.

Mr. Fasulo said that he had checked with the utility companies and there were no objections. Mr. Fasulo said that there is an existing pool in the utilities easement. Bob Dunckel said there would not be an encroachment if the plat was straightened out. Tom Terrell said that there is a 2-inch water main. Peter Partington asked if the 2-inch water main would have to be relocated. Jose DiCienzo said no.

**MOTION BY BOB DUNCKEL TO RECOMMEND APPROVAL OF A PARTIAL VACATION OF THE PORTION OF UTILITY EASEMENT LYING WEST OF THE SOUTHERLY EXTENSION OF THE UTILITY EASEMENT FROM LOT 18 TO LOT 16, SUBJECT TO APPROVAL BY THE CITY ENGINEER AND DIRECTOR OF UTILITIES. SECONDED BY TONY IRVINE.**

**MOTION PASSED UNANIMOUSLY.**

**ITEM SIX:                   AGREEMENT TO USE CITY OWNED PROPERTY**

Address or General Location: 1820 NE 18 Street

Victor Volpi introduced item stating that this was discussed at the Property and Right-of-Way meeting on April 17, 2003. He stated that Mr. Gair O'Neill and Becky Frisby would now like a positive recommendation to allow them to fence, landscape, and maintain the platted walkway to Lake Melva. Victor Volpi said that he did remove the NO TRESSPASSING sign and there is a NO DUMPING sign and the City does try to mow the lot. Victor Volpi introduced Gair O'Neill and Becky Frisby.

Ms. Frisby said that since the last meeting, there have been issues with the Sanitation Department in not maintaining the lot. Ms. Frisby said that there was a lot of vagrant traffic and there was constant aggravation. Mr. O'Neill and Ms. Frisby went on to explain the problems they were having with the unmaintained lot, not receiving the refund from the PROW, and no action taken since the last meeting, and that they would like to have some consistencies as to the use of the lot and for the City to decide who would maintain the lot.

Discussion followed as to the letting the applicants landscape and maintain the lot via a revocable license agreement, without excluding the public access to the lake and subject to City approval, City vehicles having access to the lake, placing bollards instead of a fence in order to preserve public access, subject to City design and approval, City retainer rights protected by the plat, vacation of the walkway, Parks and Recreation not having the funds to maintain the lot, having the Civic Association involved in obtaining the revocable license agreement, or applying for the vacation of the right-of-way.

**MOTION BY BOB DUNCKLE TO RECOMMEND POSITIVELY A REVOCABLE LICENSE AGREEMENT IN FAVOR OF GAIR O'NEILL AND BECKY FRISBY ALLOWING THEM TO MAINTAIN THE WALKWAY, TO LANDSCAPE THE WALKWAY SUBJECT TO CITY APPROVAL, AND TO CONSTRUCT A SYSTEM OF BOLLARDS OR POST IN RAIL SUBJECT TO CITY APPROVAL, AND THE REVOCABLE LICENSE AGREEMENT WOULD FURTHER INDICATE THAT THE FENCING/LANDSCAPING/MAINTENANCE IS SUBJECT TO THE MUNICIPALITY SUPERIOR RIGHTS IN ALLOWING IT TO BE USED IN A MANNER CONSISTENT WITH ITS DEDICATION.**

**SECONDED BY TONY IRVINE.**

Kathy Connor stated that her concerns were that the public would not know that the area would be a public access point if it was fenced and landscaped. Jose DiCienzo asked about restrictions and access.

**Yeas: Peter Partington, Bob Dunckel, Tony Irvine, Rose Reed, Lois Udvardy, Tom Terrell**

**Nays: Kathy Connor, Jose DiCienzo**

**MOTION PASSED.**

Tony Irvine left meeting at 11:35 A.M.

**ITEM 1A (WALK ON):**        **PERMIT TO WORK IN RIPARIAN RIGHTS OF VALENCIA STREET**

Address or General Location: Valencia Street, just north of Birch Road

Peter Partington introduced Barbara Hall, representative for Portofino Condominium Association.

Ms. Hall stated that approximately 40 years ago, Portofino Condominium Association had filled a portion of the riparian rights area for Valencia Street and constructed a seawall. Ms. Hall said that the area fell approximately 8 feet outside the property line for Portofino. Ms. Hall stated that they would like to remove the filled area and draw the seawall back to their property line. Ms. Hall said that the primary reason was that they need the linear footage of the seawall to qualify for the submerged land lease to reconstruct their dock facilities. Ms. Hall said that due to the fact that they would be constructing within the riparian rights area of the City, it was recommended to come before the PROW Committee to get their approval. Ms. Hall said that the City riparian rights extended from the right-of-way to the channel.

Discussion followed as to the direct location of the existing and proposed submerged land lease, item needing an engineering permit instead of a consent agenda.

Ms. Hall said that another issue for consent from the City Commission was on the proposed submerged land lease, west of seawall, there is a setback of 7 feet which is their riparian rights area and showed the location of a proposed dolphin pile. Ms. Hall said that if the facilities are not 25 feet setback from the riparian rights area, the consent of the adjacent owner is needed. Ms. Hall said that this was presented to the Marine Advisory Board.

**MOTION BY BOB DUNCKEL TO RECOMMEND APPROVAL. SECONDED BY KATHY CONNOR.**

Bob Dunckel said that there is no exact mathematical formula in determining where the riparian rights were. He said that if there was any contest between the two parties, it would be resolved between the parties by the circuit court.

**MOTION PASSED UNANIMOUSLY.**

Meeting adjourned at 11:40 A.M.